

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-7, drawn to a product, classified in class 428, subclass 68.
- II. Claims 8-14, drawn to a process, classified in class 427, subclass 58.
- III. Claim 15, drawn to a process, classified in class 257, subclass 787.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions II and I are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make another and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case that the process as claimed can be used to make another and materially different product, such as a product that includes a substrate.
3. Inventions I and III are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product. See MPEP § 806.05(h). In the instant case the product as claimed can be used in a materially different process of using that product for example the product may be used to encapsulate inorganic electronic components.

Art Unit: 1794

4. Restriction for examination purposes as indicated is proper because all these inventions listed in this action are independent or distinct for the reasons given above and there would be a serious search and examination burden if restriction were not required because one or more of the following reasons apply:

- (a) the inventions have acquired a separate status in the art in view of their different classification;
- (b) the inventions have acquired a separate status in the art due to their recognized divergent subject matter;
- (c) the inventions require a different field of search (for example, searching different classes/subclasses or electronic resources, or employing different search queries);
- (d) the prior art applicable to one invention would not likely be applicable to another invention;
- (e) the inventions are likely to raise different non-prior art issues under 35 U.S.C. 101 and/or 35 U.S.C. 112, first paragraph.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a invention to be examined even though the requirement may be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election

Art Unit: 1794

shall be treated as an election without traverse. Traversal must be presented at the time of election in order to be considered timely. Failure to timely traverse the requirement will result in the loss of right to petition under 37 CFR 1.144. If claims are added after the election, applicant must indicate which of these claims are readable on the elected invention.

If claims are added after the election, applicant must indicate which of these claims are readable upon the elected invention.

Should applicant traverse on the ground that the inventions are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

5. This application contains claims directed to the following patentably distinct species: (A) silicon nitride protective film; and (B) parylene C protective film. The species are independent or distinct because claims to the different species recite the mutually exclusive characteristics of such species. In addition, these species are not obvious variants of each other based on the current record.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claim 1 is generic.

There is an examination and search burden for these patentably distinct species due to their mutually exclusive characteristics. The species require a different field of search (e.g., searching different classes/subclasses or electronic resources, or employing different search queries); and/or the prior art applicable to one species would not likely be applicable to another species; and/or the species are likely to raise different non-prior art issues under 35 U.S.C. 101 and/or 35 U.S.C. 112, first paragraph.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species to be examined even though the requirement may be traversed (37 CFR 1.143) **and (ii) identification of the claims encompassing the elected species**, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

The election of the species may be made with or without traverse. To preserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the election of species requirement, the election shall be treated as an election without traverse. Traversal must be presented at the time of election in order to be considered timely. Failure to timely traverse the requirement will result in the loss of right to petition under 37 CFR 1.144. If claims are added after the election, applicant must indicate which of these claims are readable on the elected species.

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record

Art Unit: 1794

showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the species unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other species.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141.

6. During a telephone conversation with Mr. Mello on October 27, 2009 a provisional election was made with traverse to prosecute the invention of Group I, species (A), claims 1-5 and 7. Affirmation of this election must be made by applicant in replying to this Office action. Claims 6 and 8-15 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

7. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Drawings

8. The replacement drawings were received on 9/18/07. These drawings are not approved because they contain markings thereon not related to the Figures.

Specification

9. The substitute specification filed 9/18/07 is approved.

Claim Rejections - 35 USC § 102

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

11. Claims 1-4 are rejected under 35 U.S.C. 102(e) as being anticipated by Chun et al 6,710,542. Chun discloses an organic electronic component (an OLED) on a substrate encapsulated in a dimensionally stable capsule (the glass cover plate 18 and adhesive seal 17) that is glued to the substrate, said component and capsule partially or completely covered with protective or barrier film 52, which may be considered a thin barrier film; see Figure 3, column 2, lines 12-15, column 2, line 33 through column 3, line 5 and column 4, lines 33-52.

Claim Rejections - 35 USC § 103

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 1794

13. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chun et al 6,710,542 alone or in view of Yokajty 2005/0155704. Chun discloses the invention substantially as claimed; see the above rejection under 35 USC 102. Chun discloses that his seal or barrier layer 52 can be SiNH in the embodiment shown in Figure 3; see column 4, lines 33-50. However, Chun does not disclose the use of silicon nitride as the sealing or barrier film 52 in the embodiment of Figure 3. Chun does disclose that SiN may be used as a sealing or barrier layer in other embodiments; see column 2, lines 13-15 and claim 1. It would have been obvious to one of ordinary skill in the art to use any well-known barrier layer, such as SiN, as the barrier layer in the embodiment of Figure 3 in Chun in view of the teachings in Chun at column 2, lines 13-15 and claim 1 since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In any event, Yokajty discloses that SiN is a well-known thin-film, barrier material used to prevent moisture and/or oxygen penetration into OLED devices; see [0019]. Thus, it would have been obvious to one of ordinary skill in the art to use SiN as a barrier layer in the embodiment shown in Figure 3 of Chun in view of the teachings in Yokajty to prevent moisture and/or oxygen penetrating the OLED device.

14. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chun et al 6,710,542. Chun discloses the invention substantially as claimed; see the above rejection under 35 USC 102. However Chun does not disclose the claimed thickness of his protective or barrier film. It would have been obvious to one of ordinary skill in the art to adjust the thickness of the barrier layer in the embodiment of Figure 3 of Chun to

Art Unit: 1794

any particular thickness so as to provide a desired level of barrier properties for a particular end use since a change in size is generally recognized as being within the level of ordinary skill in the art.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alexander Thomas whose telephone number is 571-272-1502. The examiner can normally be reached on 6:30-4:00 M-THUR.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Sample can be reached on 571-272-1376. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Alexander Thomas/
Primary Examiner
Art Unit 1794